

ORIGINAL



BEFORE THE
ARIZONA CORPORATION COMMISSION

Jeff Hatch-Miller
Chairman
William A. Mundell
Commissioner
Marc Spitzer
Commissioner
Mike Gleason
Commissioner
Kristen K. Mayes
Commissioner

AZ CORP COMMISSION
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In the matter of Termination)
of Exemption of Citizens Utilities)
Rural Company, Inc. pursuant to)
Section 251(f)(1)(B) of the)
Telecommunications Act)

Docket NO. T-01954B-05-0852

REPLY BRIEF OF AUTOTEL IN RESPONSE TO
DECEMBER 12, 2005 PROCEDURAL ORDER

In accordance with Administrative Law Judge Amy Bjelland's December 12, 2005 Procedural Order in this docket, Autotel submits the following:

Autotel is required by law to submit the Notice of Request to the Commission

Both Citizens' and Staff's argument is irrelevant and factually incorrect. Most obvious is the fact that neither party can file a Petition for Arbitration with this Commission until after 135 days from the date of the request. Autotel has not

sought to circumvent a prior Commission decision by adopting an existing agreement between Citizens and another CMRS carrier because the existing approved agreements do not provide for the interconnection of Autotel's equipment.

Autotel does not have an agreement with Citizens because Citizens refused to conform the agreement to the arbitration decision and complete the service attachments. Autotel had similar problems with Qwest after arbitration decisions in Utah, Oregon and Arizona. During an enforcement proceeding before this Commission, Qwest agreed to conform the agreement to the decision. Utah and Oregon took no action to enforce its decision so the matter was referred to federal court which dismissed both complaints thereby effectively exhausting Autotel's remedies for appeal. Qwest had already initiated negotiations on a new agreement but refused to negotiate changes. Qwest then petitioned both the Utah and Oregon Commissions to impose Qwest rates terms and conditions prior to the 135 day window. The Utah Commission refused and instead decided it would only act on a timely petition for arbitration if the open issues were limited to the issues raised by Qwest.

This Commission is required by law to terminate the rural exemption within 120 days.

Citizens misstates the Commission's obligation under Section 251(f)(1)(B). The Commission "shall" not "may" terminate the exemption. And 47 CFR 51.405

requires "a rural telephone company must prove to the state commission that the rural telephone company should be entitled, pursuant to section 251 (F)(2) of the Act, to continued exemption from section 251(c) of the Act."

Citizens' allegation that Autotel has not provided any specific detail regarding its proposed interconnection is pure fabrication. Autotel's negotiator has had extensive discussions and correspondence with Citizens' negotiator and legal staff concerning Autotel's interconnection requirements over the last 3 and a half years. To conveniently put this allegation to rest, attached is a copy of Citizens' Commercial Mobile Radio Service Request Form that Autotel prepared in compliance with the Commission's arbitration decision. This is the form that Citizens uses to solicit the requesting carrier's interconnection requirements in order to prepare the service attachments to its interconnection agreement.

Staff's theory that Citizens must take some action to be exempt from the requirements of section 251(c) is not what the law says. A rural telephone company is exempt until the state commission takes action to terminate the exemption.

Conclusion

The purpose of this proceeding is to terminate the exemption of an incumbent local exchange carrier that claims to be a rural telephone company under the Act. It is not a forum to argue the merits of previous proceedings before this Commission or a proceeding that this Commission may be asked to undertake in the future. The choice for this Commission is to either comply with or violate a provision in the Telecommunications Act.

Respectfully submitted this 27th day of January, 2006

A handwritten signature in black ink, appearing to read "R. L. Oberdorfer", with a long horizontal flourish extending to the right.

Richard L. Oberdorfer

Autotel

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FAX COVER SHEET

Autotel

114 North East Penn Avenue
Bend, Oregon 97701
(541) 389-5286 Phone number
(541) 389-9856 Fax number

Send to: <i>Jerry Smith</i>	From: <i>Richard</i>
Attention:	Date: <i>12-16-04</i>
Office Location:	Office Location:
Fax Number: <i>916-686-2236</i>	Phone Number:

- ☐ Urgent
- ☐ Reply ASAP
- ☐ Please comment
- ☐ Please review
- ☐ For your information

Total pages, including cover:

Comments:

<i>Jerry</i>
<i>Attached are is the CMRS Request</i>
<i>Form for Mohave County. Please call if you</i>
<i>need any further information</i>
<i>Thanks</i>
<i>Richard</i>

1234

Commercial Mobile Radio Service Request Form

Date: 12-16-04

GENERAL INFORMATION

Company Name: Autotel
Street Address: 114 NE Penn Avenue
City: Bend State: Oregon Zip: 97701
State where Incorporated: Nevada
Contact Person: Richard L. Oberdorfer
Title: President
Address: 114 NE Penn Avenue
City: Bend State: Oregon Zip: 97701
Tel. No.: 541 389-5286
Fax No.: 541 389-9856

OCN Required: 3770

Type of Legal Entity: (check one)

Corporation: xx

Partnership: _____

Sole Proprietorship: _____

REQUEST TYPE

Paging: Yes _____ No _____

2-Way Cellular: Yes xx No _____

Type 1: xx Type 2A: xx Type 2B: _____ Other: _____

DESCRIPTION OF LOCATION/POINT OF INTERCONNECTION (POI)

(Please fill in the information as applicable)

<u>City</u> <u>Center</u>	<u>State</u>	<u>Local POI</u>	<u>POI CLLI</u>	<u>NPA/NXX</u>	<u>POI Physical Address</u>	<u>Rate</u>
<u>Kingman Arizona</u>		<u>Getz Peak</u>			<u>11 Miles SE of Kingman</u>	
<u>Bullhead City Arizona</u>		<u>CO</u>			<u>Microwave Midspan</u>	
<u>Lake Havasu City</u>		<u>CO</u>			<u>Microwave Midspan</u>	

(If further description is required, please attach extra sheet(s))

ESCALATION INFORMATION:

[illegible]

Please return completed form to:

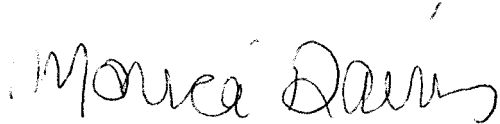
916-686-3533 voice
916-686-2236 fax
jesmith@czn.com

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the Autotel's Reply Brief in Response to December 12th, 2005 Procedural Order was sent via First Class Mail on January 26, 2006:

Kevin Saville
Associate General Counsel
2378 Wilshire Blvd.
Mound, MN 55364

Robert J. Metli
One Arizona Center
400 East Van Buren
Phoenix, Arizona 85004-2202

A handwritten signature in cursive script, reading "Monica Davis".

Monica Davis
Office Manager